UNITED STATES PATENT AND TRADEMARK OFFICE

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10/564,065	06/22/2006	Daniel Nilsson	284135US2PCT	3945

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EXAMINER
SMITH, CHENEA

ART UNIT	PAPER NUMBER
2421	

NOTIFICATION DATE	DELIVERY MODE
06/25/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/564,065	NILSSON ET AL.
	Examiner	Art Unit	
	CHENEA P. SMITH	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 June 2009*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12,14-16,18 and 20-23* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12,14-16,18 and 20-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some *   c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 6/8/2009 has been entered.

Response to Amendment

2.   This office action is in response to communications filed 5/8/2009. Claim 23 is new.

Claims 1-11, 13, 17 and 19 are cancelled. Claims 12, 14-16, 18 and 20-23 are pending in this

action.

Response to Arguments

3.   Applicant's arguments filed 5/08/2009 have been fully considered but they are not

persuasive.

4.   In response to Applicants' addition of claim 23, and to the Applicants' arguments on page

10, line 17- page 11, line 4, and subsequent similar arguments that, "*However, Applicants*

respectfully submit that there is no teaching in the references to make this combination without using hindsight analysis based on the Applicants' disclosure. The MMS notification message of Mostafa is a message for notifying the availability of a streaming content. However, in Barde there is no description or suggestion to include streaming video data in any type of message which may be the equivalent of a MMS notification message which notifies the availability of a streaming content to a user. On the contrary, as described above, Barde describes a user first starting to stream the video data by selecting a video to be played, and then receiving a still image to be displayed while video data is initially buffered. Thus, the user in Barde may be notified of the availability of a video by a playlist or an interface shown in Figs. 3 or 11. However, Barde clearly describes that all buffering of data begins after the user actually selects the video for download, and thus after any notification of the availability of a video to a user has already been made, and after a user has started a streaming service (see for example, the time line of Fig. 7)", the Examiner respectfully disagrees. Also, the Applicants should note that it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Mostofa's system includes a message that notifies a user that there is subsequent video to be viewed. This notification message is a message about the media content, and therefore would reasonably include video previews, warning messages, etc., of/about the content, which is known in the art. The Examiner believes that the reception of the static image of Barde's system is

equivalent to a notification of video content to come, as the static image comes first, and is first displayed to the user before the rest of the video is displayed or even received. Via the user interface in Barde, the user is already notified only of video available to be streamed. As multiple videos are listed in a playlist, nothing is being streamed to the user, and therefore the only actual notification of the video being streamed is the static image, i.e., the message, being displayed to the user.

Furthermore, because the streaming of the actual video content is not started until after the static image, i.e., the message, of Barde's system is displayed, it is reasonably taught that buffer data, in this case the static image message, is sent to the terminal prior to the start of the actual streaming service. Because the modification of Mostafa's system to include the limitations as taught by Barde does not render the system inoperable or change the principle of operation of the system, it would have been obvious for a person having ordinary skill in the art at the time of the invention to modify Mostafa's system to include the limitations as taught by Barde for the advantage of implementing a quick starting video process by providing the illusion of continuous broadcast.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 12-14 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mostafa (of record) in view of Richardson (of record), Jason (of record) and Barde (of record).

Regarding claims 12 and 20-22, Mostafa discloses a procedure to transmit streaming

video data to a terminal with video a client (receiver 24, see Fig. 2) within a system that includes

a network (see Fig. 2) and the terminal (see Fig. 2), wherein the network includes a streaming

server (media server 22, see Fig. 2 and [0103]) and an MMS server (MMS server 23, see Fig. 2),

and the terminal includes an MMS client (see Fig. 2), a streaming client (see Fig. 2) and a

display unit to display the streaming video data (see Fig. 2), the procedure comprising:

at a same time as a first time interval is being displayed on the display unit, new

streaming data of the streaming video data are transmitted to the terminal (see [0105], lines 1-4),

and before a streaming service is initialized, an MMS notification message is initially

transmitted to the terminal, (see Mostafa, [0104] – [0105], line 5), the MMS includes information

about the data flow (see Mostafa, [0104], lines 6-12), whereby the streaming client can start

streaming of buffer data without delay (see Mostafa, [0107]).

Mostafa does not specifically disclose a streaming buffer to buffer streaming data,

dividing information into high prioritized data which are I-frames, and low prioritized

data which are P-frames,

wherein the high prioritized data are transmitted via a secure medium,

and the low prioritized data are transmitted over a standard channel,

displaying, after the transmission of the high and low prioritized data, the high and low

prioritized data in a correct sequence continually in the terminal, and

buffering a first time interval of the streaming data, to display the first time interval on the display unit, or

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming.

And while Mostafa discloses an MMS notification message, he does not specifically disclose buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service.

In an analogous art, Richardson discloses dividing information into high prioritized data (see [0016], lines 4-9) which are I-frames (see [0016], lines 13-20), and low prioritized data (see [0016], lines 4-9) which are P-frames (see [0016], lines 13-20), and

displaying, after the transmission, the high and low prioritized data in a correct sequence continually in the terminal (see [0020], lines 15-22).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify Mostafa's system to include the limitations as disclosed by Richardson, for the advantage of improving network efficiency.

Mostafa in view of Richardson does not specifically disclose wherein the high prioritized data are transmitted via a secure medium and the low prioritized data are transmitted over a standard channel,

a streaming buffer to buffer streaming data,

buffering a first time interval of streaming data, to display the first information on the display unit,

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming, or

buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service.

In an analogous art, Jason discloses high prioritized data transmitted via a secure medium, and whereas low prioritized data transmitted over a standard channel (see col 4, lines 4-50)

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson to include the limitations as disclosed by Jason for the advantage of improving network efficiency.

Mostafa in view of Richardson and Jason does not specifically disclose a streaming buffer to buffer streaming data,

buffering a first time interval of streaming data, to display the first information on the display unit,

wherein the high prioritized data are transmitted via MMS and the low prioritized data are transmitted via streaming, or

buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service.

In an analogous art, Barde discloses a streaming buffer to buffer streaming data (see [0033], lines 6-8),

buffering a first time interval of streaming data, to display the first information on a display unit (see [0041], lines 6-13), and

buffer data, the buffer data being initial streaming video data that can be stored on the terminal prior to a user of the terminal starting a streaming service (see [0026], lines 12-15, [0033], lines 6-8 and [0045]).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson and Jason to include the limitations as disclosed by Barde for the advantage of providing the illusion of continuous broadcast in a system. In addition, it would have been obvious to a person having ordinary skill in the art at the time of the invention to include the initially buffered data of Barde's system in the MMS notification message of Mostafa's system for the advantage of implementing a quick starting video process within Mostafa's system that, for example, may allow the user to preview the content sent as a way to further enhance the user's viewing at his/her own discretion.

Mostafa in view of Richardson, Jason and Barde does not specifically disclose wherein high prioritized data are transmitted via MMS and low prioritized data are transmitted via streaming. However, the practice of transmitting high priority data separately from low priority data, as well as the practices of transmitting data via MMS and streaming are commonly known in the art. Also, the practice of first transmitting I-frames, which are the reference frames of any video, and are therefore essential to the reproduction of a video, is commonly known. The only difference is the combination of all of the practices together in a single system. By implementing streaming functionality within the framework of existing MMS protocol, a user is provided with complete flexibility to decide whether and when to receive and playback media content.

Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to include transmitting the high priority I frames of Richardson's system

via the MMS of Mostafa's system and the low priority P frames of Richardson's system via the streaming system of Mostafa's to achieve the predictable results of efficiently providing media to a mobile terminal by enabling streaming of media content to be incorporated into a multimedia messaging system in a manner that is compatible with already existing MMS specifications without requiring extensive modifications to existing recommendations.

Regarding claim 14, Mostafa in view of Richardson, Jason and Barde discloses just any amount (see Mostafa, [0098], lines 15-19) of high prioritized data (see Richardson, [0016], lines 4-9 and 13-20) can be transmitted in an MMS message (see Mostafa, [0098], lines 15-19).

Regarding claim 23, Mostafa in view of Richardson, Jason and Barde discloses the MMS notification message being sent to the terminal prior to the user requesting to start a streaming session for receiving the video data (see Mostafa, [0098], lines 6-9 an [0107], lines 11-15).

7.   Claims 15-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mostafa (of record) in view of Richardson (of record), Jason (of record) and Barde (of record), as applied to claim 12 above, and further in view of Cooper (of record).

Regarding claim 15, Mostafa in view of Richardson, Jason and Barde discloses wherein all high prioritized data (I-frames, see Richardson, [0016], lines 4-9 and 13-20) are transmitted via MMS (see Mostafa, Fig. 2), but does not specifically disclose data transmitted at a short video sequence.

In an analogous art, Cooper discloses data transmitted at a short video sequence (see [0019], lines 18-31).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify the system of Mostafa in view of Richardson, Jason and Barde to include the limitations as disclosed by Cooper for the advantage of providing a representation of full video to be received.

Regarding claim 16, Mostafa in view of Richardson, Jason and Barde, and further in view of Cooper discloses wherein asymmetrical (see Cooper, [0016], lines 1-6 and [0019], lines 18-31) high prioritized data (I-frames, see Richardson, [0016], lines 4-9 and 13-20) are transmitted via MMS (see Mostafa, Fig. 2) at long video sequences (see Cooper, [0016], lines 1-6 and [0019], lines 18-31).

Regarding claim 18, Mostafa in view of Richardson, Jason and Barde, and further in view of Cooper discloses wherein the procedure includes:

the streaming client putting the buffer data (see Barde, [0045]) enclosed in the MMS notification (see Mostafa, [0104] – [0105], line 5) message in its streaming buffer (see Barde, [0045]),

the terminal initiating a session with the streaming server which starts streaming back the rest of the streaming video data (see Barde, [0033], lines 6-8 and [0041], lines 6-13 and Mostafa, [0105], lines 1-5),

transmitting the rest of the streaming video data to the streaming client (see Mostafa, [0105], lines 1-5), and

the streaming client putting the rest of the streaming video data in the streaming buffer (see Barde, [0033], lines 6-8 and [0041], lines 6-13).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHENEA P. SMITH whose telephone number is (571)272-9524. The examiner can normally be reached on Monday through Friday, 7:30 am - 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

/Chenea P. Smith/
Examiner, Art Unit 2421